

BY – LAWS

BOARD OF ADJUSTMENT

CITY OF LONGVIEW

ARTICLE I – NAME AND AUTHORITY

- Sec. 1. Name The name of this organization shall be known as the Longview Board of Adjustment (Hereinafter, referred to as the Board).
- Sec. 2. Authority The Longview Board of Adjustment is established by Ordinance No. 96 of the City Council of the City of Longview, Texas, pursuant to authority of Article g, Vernon's Texas Annotated Civil Statutes and all amendments.

ARTICLE II – POWERS AND DUTIES

- Sec. 1. The Board shall be vested with all powers and duties available to it as specified under Texas Civil Statutes and all amendments thereto.
- Sec. 2. Specifically, the Board shall take action in regards to the following:
- A. Permit the reconstruction, extension or enlargement of a building occupied by a nonconforming use on a lot or tract occupied by such building, provided such reconstruction does not prevent the return of such property to a conforming use;
 - B. Permit the expansion of off-street parking or off-street loading for a nonconforming use. The Board may permit off-street parking or off-street loading beyond the lot or tract upon which the nonconforming use is located.
 - C. Permit such modification of the height, yard, area, coverage and parking regulations as may be necessary to secure appropriate development of a parcel of land, which differs from other parcels in the district by being of such restricted area, shape or slope that it cannot be appropriately developed without such modification;

- D. Require the discontinuance of nonconforming uses of land or structure under any plan whereby the full value of the structure and facilities can be amortized within a definite period of time, taking into consideration the general character of the neighborhood and the necessity for all property to conform to the regulations of this Ordinance. All actions to discontinue a nonconforming use of land and structure, shall be taken with due regard for the property rights of the persons affected when considered in the light of the public welfare and the character of the area surrounding the designee nonconforming uses, and the conservation and preservation of property.

The Board shall, from time to time, on its own motion or upon cause, presented by interested property owners, inquire into the existence, continuation or maintenance of any nonconforming use within the City;

- E. Hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official.

Sec. 3. In taking action, the Board shall consider whether the public convenience and welfare will be substantially served and if the appropriate use of the neighboring property will not be substantially or permanently injured.

Sec. 4. Work plans. The Board shall annually prepare a work program detailing the Board's prospective activities for the ensuing year, and a written report of its activities for the previous two (2) years. The report shall include a review of the Board's mission, its accomplishments and activities in general, the attendance record of its membership, and any recommendations or requests deemed appropriate by the Board.

At least once every two (2) years, the Chairman shall present to the City Council at a regularly scheduled work session a report of the activities of the Board since the previous such report or for the last two (2) years, whichever period is shorter in duration.

ARTICLE III – MEMBERS

Sec. 1. Composition. The Board of Adjustment shall consist of five (5) regular members and up to four (4) alternates.

Sec. 2. Term of Office. The term of office of each member shall be for two (2) years or until a successor is appointed and qualified. No person shall serve more than two (2) consecutive full terms. A person will be eligible for reappointment to the Board one (1) year from and after the expiration of the second of two (2) consecutive terms. Serving the remainder of a

term, which has been vacated, shall not be considered in determining terms served.

Sec. 3. Appointments. Appointment to the Board shall be made in March of each calendar year.

Sec. 4. Residency. Residency in the city limits of Longview, Texas, shall be a prerequisite to serving on the Board of Adjustment.

Sec. 5. Voting. At all meetings of the Board of Adjustment, each member attending shall be entitled to cast one (1) vote. All members present shall cast either an affirmative or negative vote unless he/she has vacated their seat because of a conflict of interest. Voting shall be by voice or by roll call as determined by the Chairman. All cases to be heard by the Board must be heard by a minimum of four (4) members. The concurring vote of four (4) members of the Board shall be necessary to decide in favor of the applicant on any matter. The number of votes cast for and against each motion shall be recorded in the minutes.

Sec. 6. Conflict of Interest. Any member of the Board who feels that he/she has a conflict of interest on any matter that is on the Board's agenda shall explain the nature of such conflict, voluntarily vacate his/her seat and refrain from discussing and voting on said item with other Board members. A member shall declare a conflict of interest in a matter under consideration by the Board when: (1) The member has a personal financial interest in the matter; (2) The member is an officer of, has an interest in, or is employed by a firm or corporation which has an interest in the matter; or (3) Any circumstance exists which would in any way affect the ability of the member to give a fair and impartial determination in a matter before the Board. Any member may raise the question of conflict of interest or possible conflict of interest with respect to any other member present. The question raised must be decided by majority vote of the members present.

Sec. 7. Absences. Any member shall forfeit his or her office if said member misses more than three (3) regular meetings in succession or more than one-third (1/3) of the regular meeting during any calendar year, unless for medical reasons certified by a physician, or excused by the Board and City Council.

An attendance record shall be forwarded to the City Manager on a quarterly basis.

Sec. 8. Vacancies. Any vacancy resulting from resignation, removal, or death of a member serving as Chairman, shall cause the Vice-Chairman to automatically assume the position of Chairman and a new Vice-Chairman shall be elected.

ARTICLE IV – OFFICERS

- Sec. 1. The officers of the Board of Adjustment shall be Chairman, Vice-Chairman, and Secretary.
- Sec. 2. The Chairman and Vice-Chairman shall be elected at the annual meeting and shall serve for a term of one (1) year, or until their successors are elected. Any member nominated for the office of Chairman shall have at least one (1) full year of unexpired term to serve.
- Sec. 3. The City Planner shall serve as Secretary, and may appoint a staff member as Assistant Secretary.
- Sec. 4. Any vacancy of office shall be filled by election for the remainder of the normal term.
- Sec. 5. No person shall be eligible to hold the office of Chairman or Vice-Chairman for more than two (2) full, consecutive one-year terms.

ARTICLE V – DUTIES OF OFFICERS

- Sec. 1. Chairman. The Chairman shall preside at all meetings of the Board and shall be eligible to vote on all matters coming before the Board. He/she shall appoint all committees and is responsible for conducting all meetings in an orderly manner. The Chairman shall sign all resolutions and other approved records, papers, and documents of the Board.
- Sec. 2. Vice-Chairman. The Vice-Chairman shall perform all the duties and assume all the responsibilities of the Chairman in his absence.
- Sec. 3. Secretary. The Secretary shall keep accurate records of all proceedings of the Board, be responsible for issuing all necessary correspondence, notices and agendas, and be responsible for compiling reports and keeping attendance records. The Secretary shall sign and note approval of the minutes of the Board and shall, when required by law, authenticate the signature of the Chairman.
- Sec. 4. Assistant Secretary. In the absence of the Secretary, the Assistant Secretary shall act in the manner and capacity as Secretary.

ARTICLE VI – MEETINGS

- Sec. 1. Regular Meetings. Regular meetings of the Board shall be the third Tuesday of each month, unless such date is a legal holiday, in which case the meeting shall be held on the following day (Wednesday). Unless otherwise publicly announced by the Chairman, all meetings shall be held in the City Council Chambers, Jo Ann Metcalf Municipal Building, 300 West Cotton Street, Longview, Texas 75606. The regularly scheduled

meeting shall commence at 11:00 a.m. Any change in meeting location, time, or date shall be posted on the official notice board in the Municipal Building, for the convenience of persons having business before the Board.

Members of the Board, in the interest of fairness to applicants and the public, shall discourage any discussion of an application or other matter requiring a public hearing with the applicant, his/her representative or the general public prior to the public hearing. This restriction includes personal conversation, telephone call or letter. All such discussion shall be held at the public hearing called for that purpose enabling all members and the public to have the full benefit of such discussion.

- Sec. 2. Agenda. The secretary, or other authorized officer, shall prepare an agenda of all matters to come before the Board no later than six days (6) prior to the meeting date. All requests for inclusion on the agenda shall be made known to the secretary by 5:00 p.m. eight days prior to the next regular meeting or by the officially established schedule pertaining to the type of case to be heard.
- Sec. 3. Special Meetings. Special meetings may be called by the Chairman, or in his/her absence, the Vice-Chairman, or upon written request of any three (3) members of the Board. Notice received by letter or phone by Board members and the news media 24 hours prior to the scheduled time shall be considered ample notice.
- Sec. 4. Annual Meeting. The regular meeting of the month of March of each year shall be designated as the annual meeting, at which time officers for the coming year shall be elected.
- Sec. 5. Quorum. A quorum shall consist of four (4) members of the Board appointed and qualified at any given time. In the absence of a quorum at any meeting, the presiding officer may adjourn the meeting to a specific time, date, and place, which shall be publicly announced.
- Sec. 6. Open Meetings. All meetings of the Board shall be open to the public and to attendance by representatives of the news media, in accordance with Texas Open Meetings Law (Art. 6252-17 Texas Revised Civil Statutes).
- Sec. 7. Minutes Available. The Secretary shall prepare and maintain permanent minutes to be kept available for public view and use.

ARTICLE VII – COMMITTEES

- Sec. 1. Other Committees. The Chairman shall appoint such committees as may be deemed necessary to carry on the work of the Board.

ARTICLE VIII – FINAL DISPOSITION

- Sec. 1. In the final disposition of any application, the decision shall affirm, modify, or reverse the refusal of a permit by, or any order or decision of, the City Planner. In case of an application for variance or special exception, the decision shall set forth that the application is denied or that it is granted with or without conditions, and said decision shall specifically set forth what variations or special exceptions are permitted and what conditions, if any, shall be complied with. Every application shall be disallowed, unless the concurring vote of four members of the Board shall favor the appeal or application.
- Sec. 2. Any applicant may, in writing, withdraw his application at any time prior to its hearing by the Board of Adjustment.
- Sec. 3. If the Board grants an application, all permits necessary for the prosecution of the work shall be obtained within ninety days and construction commenced within one year from the date of permission by the Board. If the provision is not complied with, the variance is void and a new application must be submitted to the Board.

ARTICLE IX – REHEARINGS

- Sec. 1. No rehearing of any decision by the Board of Adjustment shall be had except on motion by a member of the Board to reconsider the vote, made and acted on within ten days after its decision and carried by not less than four concurring votes.
- Sec. 2. No motion for a rehearing shall be entertained except upon written request for rehearing, and then not unless new evidence is submitted which could not reasonably have been presented at the meeting at which the hearing was originally had.
- Sec. 3. If a rehearing is granted, a new date shall be set.
- Sec. 4. No additional application to the Board of Adjustment shall be allowed, unless there shall have been a substantial change in the circumstances affecting such property since the prior decision on the same piece of property.

ARTICLE X – PRECEDENTS

- Sec. 1. No action of the Board of Adjustment shall set a precedent. Each case shall be decided upon its merits and upon the circumstances attendant thereto.

ARTICLE XI – RESOLUTIONS

Sec. 1. Every resolution not otherwise provided for shall require a majority of the members present at a legally constituted meeting.

ARTICLE XII – ADVICE

Sec. 1. The Board will consider no informal request of advice, or moot questions. Any advice, opinion, or information given by a Board member or the Secretary, or any other official or employee of the City of Longview, shall not be binding on the Board. Because of the annoyance caused by individuals appealing personally to members of the Board, it is declared to be the policy of the Board to deprecate any such personal appeals.

ARTICLE XIII – PARLIAMENTARY AUTHORITY

The rules contained in Robert's Rules of Order Newly Revised shall govern the Board in all cases to which they are applicable, and in which they are not inconsistent with these Bylaws.

ARTICLE XIV – AMENDMENTS

These Bylaws may be amended at any regular meeting of the Board by a vote of not less than three (3) members of the Board present and voting, provided that any proposed amendment has been submitted in writing at the previous regular meeting.

Adopted by the Board of Adjustment this 16th day of December, 2003. To be effective the 1st day of January 2004.

Dennis Bowles, Chairman

Attest:

Kathleen Easley, City Planner